



STATE OF CALIFORNIA
DEPARTMENT OF GENERAL SERVICES - PROCUREMENT DIVISION

CONTRACT NOTIFICATION

***** MANDATORY *****

CONTRACT NUMBER: 1-07-80-01

DESCRIPTION: GLASS SPHERES (BEADS)

CONTRACTOR: POTTERS INDUSTRIES INC.

EFFECTIVE DATES: 11/20/2007 THROUGH 11/19/2009

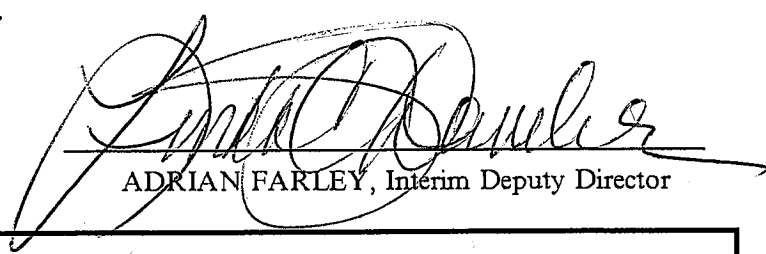
SUPERSEDES CONTRACT NO.: 1-04-80-01

AREA: STATEWIDE

DISTRIBUTION: DEPT. OF TRANSPORTATION

* TAX: Add appropriate sales and use tax.
Exempt from Federal Excise Tax.

*Food contracts are tax exempt.


ADRIAN FARLEY, Interim Deputy Director

Use of this agreement by all agencies is mandatory with monetary exceptions stated herein or contained in State Administrative Manual.

To obtain assistance or report non-compliance by supplier, or for any suggestions or recommendations write:

Department of General Services, Procurement Division, P.O. Box 989054, W. Sacramento, CA 95798-9054,
or call: Contract Administrator, JOE VAN HECKE 916-375-4488

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SUPPLIER ID: 107625
NAME: POTTERS INDUSTRIES INC
ADDRESS: PO BOX 840
VALLEY FORGE, PA 19482-0840

CONTACT: 610-651-4714 YVONNE D HARRIS
FAX NUMBER: 610-408-9723
TERMS OF PAYMENT: NET 45 DAYS
FOB: Destination
MINIMUM ORDER: AS SPECIFIED

SCOPE:

This contract covers the estimated two (2) year requirements of the State of California, Department of Transportation and participating local agencies for GLASS SPHERES (BEADS). The product offered must comply with Specification(s) No. 8010-004 and 8010-005, and Glass Bead Tote (Drawing), dated October 1998, contained herein. This contract is MANDATORY for State departments only.

A local agency is any city, county, city and county, district, or other local governmental body or corporation empowered to expend public funds (California Public Contract Code Section 10298).

CONTRACT TERM:

This contract is for a two (2) year term. The contract contains an option for two (2) contract extension period(s). Each contract extension period(s) shall not exceed twelve (12) months. The terms, conditions, and prices for the contract extension(s) option shall be by mutual agreement between the supplier and the State. If a mutual agreement cannot be met, the contract may be terminated at the end of the current contract term and/or contract extension(s).

MINIMUM ORDER:

Minimum order shall be one (1) pallet of 48 fifty pounds (50 lbs.) bags, or one (1) pallet of four drums, or one (1) palletized tote.

ORDERING PROCEDURE:

State agencies shall submit a complete Purchasing Authority Purchase Order (STD. 65) directly to the contractor. The Purchasing Authority Purchase Order (STD. 65) shall contain (but not limited to) the following information:

1. Agency Billing Code.
2. Purchasing Authority Purchase Order Number (PO No.).
3. Leveraged Procurement Agreement Number (Contract No.).
4. Supplier Information (Contact Name, Address, Phone Number, Fax Number, and E-Mail).
5. Line Item Number.
6. Quantity.
7. Unit of Measure.
8. Commodity Code Number
9. Recycled Product.
10. Product Description.
11. Unit Price.
12. Extension Price.

NOTE: Contractor shall not accept orders from State or local agencies without a State-issued billing code.

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State agencies and local agencies shall submit copies of all purchase orders to:

DGS-Procurement Division
Attn: Data Entry Unit
P.O. Box 989052
West Sacramento, CA 95798-9052

ORDER ACKNOWLEDGEMENT/CONFIRMATION:

Within 48 hours, the contractor must confirm receipt of the STD 65 either via e-mail or facsimile, providing the user a receipt acknowledging the order. The acknowledgement must include total cost and delivery date information.

CONTRACTOR ORDERING INFORMATION:

By signing and submitting the solicitation, the contractor agrees to accept orders by facsimile, e-mail or U.S. Mail. List below business address, facsimile, and e-mail address to which orders should be sent:

Company Name:	Potters Industries
Street Address:	PO Box 840
City, State, and Zip:	Valley Forge, PA 19482-0840
Contact Person:	Yvonne D. Harris
Facsimile Number:	(610) 408-9723
E-Mail Address:	yvonne.harris@pottersbeads.com

F.O.B. DESTINATION AND ORIGIN:

Delivery of orders of less than twenty-two thousand pounds (22,000 lbs) shall be F.O.B. Origin (Contractor's location) with the shipping cost "Prepaid and Add" to the invoice(s). Delivery of orders of twenty-two thousand pounds (22,000 lbs) or more shall be delivered F.O.B. Destination. Contractor shall indicate the city and state of the F.O.B. Origin location below:

F.O.B. Origin Location(s): Kingman, AZ or Canby, OR

SELLER PERMIT:

Retailer's Seller's Permit Number: 30-618260

QUANTITIES:

Quantities as described for each line item on the bid price sheet are estimated for evaluation purposes only. The estimated quantities are based upon historical purchasing for a two (2) year period. Actual purchasing may vary from this pattern. The State will not guarantee that these quantities will be purchase. The State will not be obligated to procure any Contractor's excess inventories of any item if actual acquisitions vary from the anticipated purchasing pattern. The State reserves the right to order more or less of any line item on this contract. There is no limit to the number of orders that may be placed by the State of California, Department of Transportation (DOT), and DOT may place orders as frequently as required.

CONTRACT DOLLAR VALUE:

The State's obligation to pay is based solely from the funds appropriated for the acquisition of the products on this contract. Therefore, there is no guaranteed contract dollar value. If funds are not appropriated for future fiscal years, the contract dollar amount will be reduced accordingly. Receipt of an order under the contract is proof of availability of funds for that order. The State will be excused from purchasing from this contract due to closure of State facilities, changes to or cancellation of State programs, by reduction of product usage, or because of lack of fiscal appropriations.

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EXTRAORDINARY EXTENSION OPTION:

In the event of an extraordinary circumstance the State may extend the contract for up to an additional year beyond the stated term and any noted extensions. Extensions during this period MAY occur in increments until the establishment of a new contract (not to exceed one-year). Exercise of this may occur in the event that a replacement contract cannot be established due to the protest of intent to award, loss of key procurement staff, or extraordinary circumstance that would otherwise cause an unanticipated disruption in the contracting process.

If necessary, prices may be increased during an extraordinary extension option period, to the extent that price is determined by the State to be "fair and reasonable". Requests for price increase(s) shall include substantiated information to support the proposed increase (e.g., manufacturer's price list, significant changes in published market indicators for the industry, certified raw material cost data, and any other substantiating information as requested by the State). In no event will price increases be accepted with retroactive effective dates.

DELIVERY REQUIREMENTS:

The ordering agency may stipulate in the purchase order when the delivery is to be made; however, it shall not exceed 20 calendar days after the receipt of order (ARO) by the contractor. Regular delivery shall be made between 8:00 a.m. to 4:00 p.m., Monday through Friday, except State observed holidays.

Contractor is requested to make deliveries in Los Angeles County, Orange County, San Bernardino metropolitan area, San Diego metropolitan area, San Francisco/Bay Area, and Sacramento during off-peak hours. Off-peak hours are from 10:00 am to 4:00 pm.

The State and the Contractor shall work closely to assure that delivery is coordinated. The contractor shall have the responsibility to provide reasonable notice to the receiving location within one (1) working day of an impending delivery and of any changes in the delivery after that time.

This contract will be separate from any other contract. Deliveries required, as a result of this contract shall NOT be withheld due to the unavailability of goods for delivery under any other contract. Failure to deliver goods in strict conformance with the terms and conditions of this contract will incur default action as provided for under Section 26 of the General Provisions. This includes time lines of deliveries and quality levels of items received.

INVOICING REQUIREMENTS:

The contractor is to render invoices as instructed on individual orders. Invoices must use the contractor's invoice that includes at a minimum:

1. Contractor's name, address and telephone number
2. Leveraged Procurement Agreement Number (State's Contract number)
3. Agency Purchasing Authority Purchase Order Number
4. Item and Commodity Code Number
5. Quantity Purchased
6. Contract Price and Extension
7. State Sales and/or Use Tax
8. Prompt Payment Discounts/Cash Discounts, if applicable
9. Totals for each order

The State's obligation to make payment pursuant to the contract is subject to availability of appropriation funds. Receipt of a Purchasing Authority Purchase Order under this contract is proof of funds for that order.

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SALES TAX:

Sales tax should be added at time of invoicing. The sales tax rate applied should be based on the rate of the area where the product is to be delivered.

CONTRACTOR RESPONSIBILITY:

1. Contractor shall perform all deliveries to facilities in a safe and professional manner. Contractor's equipment shall be in good working order and all personnel shall be trained in safety measures to preclude accidents endangering personnel or property.
2. Contractor's staff must be familiar with the product and be able to provide informed assistance regarding use of the product. The contractor must have sufficient inventory control and/or warehousing, with sufficient stock on-hand to satisfy the contract requirements.
3. Contractor must commit to delivery as requested, at time stated on accepted orders, through the term of the contract.
4. Contractor shall provide office and personnel resources for responding to requests, including telephone coverage weekdays during the hours of 8:00 AM through 5:00 PM (PST).

POSTCONSUMER RECYCLE CONTENT

The glass spheres (beads) shall meet the minimum 10% postconsumer content as specified on the Postconsumer-Content Certification form (CIWMB 74) Code 4 Glass Products - "reflective beads", in accordance with State of California Public Contract Code Section 12209 et seq.

SPECIFICATION COMPLIANCE:

The supplier, if requested (in writing) by the State, must be able to demonstrate that they can produce a product that meets bid specifications. Such demonstration of compliance may consist of providing standard catalog/product literature/or laboratory testing report(s) demonstrating that the product meets the State's minimum requirements. The State also reserves the right to request a product sample(s) for determination of the compliance of the product.

Subject catalog/product literature, upon request, must be provided within five (5) working days. A product sample(s) or laboratory test report(s) must be provided within ten (10) working days, after request.

A letter of compliance with the specification for each lot shipped shall be submitted to the ordering State Agency.

PRICE:

Unless escalation is requested, all prices quoted for material costs shall be fixed as the maximum cost for the entire contract term, including any contract extension(s).

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PRICE ESCALATION-MATERIAL COSTS AND FUEL COSTS:

Material Costs:

If requested, the contractor may submit a notice of proposed price escalation, in writing (for other than fuel costs, see Fuel Costs below), to the Department of General Services, Procurement Division, no earlier than three hundred sixty-five (365) calendar days after award. Such notice shall include substantiated information to support the proposed escalation (e.g., manufacturer's price list, significant changes in published market indicators for the industry, certified raw material cost data and any other substantiating information as requested by the State.). The State shall determine what constitutes substantiating documentation.

Upon receipt of such notice, the State reserves the right to exercise the following options:

1. Accept the escalation as competitive with the general market price at that time, effective no more than forty-five (45) calendar days after receipt of an acceptable notice; or the State may choose to
2. Negotiate a proposed price escalation. Note: The State will notify the contractor in writing of its intention to negotiate. The State shall have (20) working days to complete negotiations; or the State may
3. Cancel any unpurchased balance of the contract without prejudice, effective upon written notice from the State.

Note: If negotiations fail to produce any agreement, the State reserves the right to exercise either Options 1 or 3 with an effective date no later than ten (10) working days after unsuccessful negotiation.

No price increase shall apply to quantities ordered from the contract prior to the effective date of the price escalation as authorized by the State via an approved supplement to the contract.

Any accepted price escalation increase shall be fixed as the maximum price for a period of not less than three hundred sixty-five (365) calendar days from the effective date of the approved price escalation as described above, and/or through the date of contract termination or contract extension(s), whichever is less.

Fuel Costs:

Unless escalation is requested, all prices quoted for fuel cost shall be fixed as the maximum cost for the contract term, including any contract extension(s).

If requested, the contractor may submit proposed escalation notice for fuel costs, in writing, to the Procurement Division Contract Administrator when the cost of fuel has increased no less than ten percent (10%) from the original fuel cost and after one hundred eighty (180) calendar days from the effective date of the contract or from the effective date of the most recent price increase for fuel costs. Such notice shall include substantiated information to support the proposed escalation from the published OPIS (Oil Price Information Service), the market indicator for the fuel industry. The Department of General Services, Procurement Division tracks and monitors such fuel changes at the following website: www.pd.dgs.ca.gov/contracts/fuelrates.

Upon receipt of such notice, the State reserves the right to exercise the following options:

1. Accept the escalation as competitive with the general market price at that time, effective no more than forty-five (45) calendar days after receipt of an acceptable notice; or the State may choose to
2. Negotiate a proposed price escalation. Note: The State will notify the contractor in writing of its intention to negotiate. The State will have (20) working days to complete negotiations; or the State may
3. Cancel any unpurchased balance of the contract without prejudice, effective upon written notice from the State.

Note: If negotiations fail to produce any agreement, the State reserves the right to exercise either Options 1 or 3 with an effective date no later than ten (10) working days after unsuccessful negotiation.

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No price increase shall apply to quantities ordered from the contract prior to the effective date of the price escalation as authorized by the State via an approved supplement to the contract.

Any accepted price escalation increase shall be fixed as the maximum price for a period of not less than one hundred eighty (180) calendar days from the effective date of the approved price escalation as described above, and/or through the date of contract termination or contract extension(s), whichever is less.

PRICING PERCENTAGE BREAKDOWN:

The State requires an overall AVERAGE PERCENTAGE BREAKDOWN of the products bid. This information will be used for price escalation only.

PERCENTAGE OF PRODUCT Per Material Costs		PERCENTAGE OF DELIVERY Per Fuel Costs		TOTAL
74%	+	26%	=	<u>100 %</u>

Price Declines:

The contractor shall immediately notify the State's Contract Administrator of all manufacturers' price declines and the State shall receive full benefit of such declines, effective on the date of manufacturer's public announcement.

CONTRACT USAGE REPORTING:

The contractor shall provide a quarterly detailed usage report by line item and commodity code to the State's Contract Administrator in Excel format via e-mail or U.S. Mail on a CD. All reports are due by the 15th day following the ending of a contract quarter. Report shall contain the following elements:

1. Leveraged Procurement Number (Contract Number)
2. Purchasing Authority Purchase Order (Std. 65) Number
3. Date of the Purchasing Authority Purchase Order
4. Reporting Quarter
5. Agency Identifier (State)
6. Ordering Agency Name (Location)
7. Agency Billing Code
8. Delivery Date
9. Line Item Number
10. Commodity Code Number
11. Manufacturer Part Number
12. Item Description
13. Quantity
14. Unit of Measure
15. Unit Price
16. Extended Amount
17. Invoice Number
18. Date of Invoice

Sample usage report will be available after award.

NOTE: The DGS/PD reserves the right to add additional contract usage report data requirements for the entire duration of this contract.

WARRANTY REQUIREMENT:

The contractor's warranty shall guarantee any product produced under this contract against defects in materials and workmanship. The contractor shall replace defective and/or non-compliant product at no cost to the State.

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LIQUIDATED DAMAGES:

In the event that State purchase orders are not completed and shipped within the specified time frames as set forth in this contract, and it is agreed that a delay has occurred and that the order is subject to liquidated damages (unless the delay is authorized by the DOT or Deputy Director, Department of General Services, Procurement Division). Whereas, it is impractical to ascertain and determine the damage sustained by the State in the event of (and by reason of) such delay, it is agreed that the contractor pay the State six percent (6%) of the shipment per calendar day for each and every calendar day that the work remains uncompleted or unacceptable by the State, provided total damages assessed against the contractor do not exceed fifty percent (50%) of the total value of the entire order. The contractor agrees to pay said liquidated damages as provided herein. In the event that such damages are not paid, the contractor agrees that the State may deduct the amount thereof from any monies due or that may become due to the contractor.

PATENTED MATERIALS:

The contractor shall assume all costs arising from the use of patented materials, equipment, devices, or processes used on or incorporated in the work and the production of the glass spheres (beads), and agrees to indemnify and hold harmless the State, the Department of Transportation (DOT) and their duly authorized representatives from all suits at law, or action of every nature for, or on account of, the use of any patented materials, equipment, devices or processes.

OFFICE EQUIPMENT:

The State uses office equipment commercially available in the public domain. The contractor is expected to operate and maintain (at its own expense) compatible computer workstations, facsimile machines, copiers, color printers, scanners, and digital cameras as necessary for the conduct of business with the State under this contract. The contractor will be required to electronically transmit and receive various word documents, spreadsheets, sign specifications, fabrication details, and purchase orders. The contractor is expected to have sufficient office equipment available to its staff to handle the workload that can reasonably be expected under this contract.

DGS USE FEE:

DGS charges a use fee for both state and local agencies. Specifics on the current use fee can be found at this DGS Website:

<http://www.ofs.dgs.ca.gov/Price+Book/P/Purchasing.htm>

The billing category "Purchase Order Issuance" applies to this contract. (The fee is currently "1.98% of value of order, maximum of \$7,500.")

For DGS billing purposes, State agencies are to submit a copy of their order as instructed on the Std. 65, Purchasing Authority Purchase Order. Local Agencies are to submit a copy of their order to the following address:

DGS-Procurement Division
Attn: Data Entry Unit
PO Box 989052
West Sacramento, CA 95798-9052

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ITEM NO.	COMMODITY NO. SUPPLIER PART NO.	SUPPLIER NO.	UNIT	DESCRIPTION	UNIT PRICE
1	8010-000-0009-4	107625	LB	BEAD TRAFFIC (GLASS SPHERE) (50 LB/BG) Type II Glass Spheres (Beads), moisture proof, 50 lb (23 kg) bag, per Specification 8010-07BS-001, dated April 2007.	0.2580
Brand: Potters					
2	8010-008-4347-4	107625	LB	BEAD TRAFFIC (GLASS SPHERE) (550 LB/DR) Type II Glass Spheres (Beads), moisture proof, 550 lb (249 kg) fiber drum, per Specification 8010-07BS-001, dated April 2007.	0.2880
Brand: Potters					
3	8010-001-0017-9	107625	LB	BEAD TRAFFIC (GLASS SPHERE) (2200 LB/TT) Type II Glass Spheres (Beads), moisture proof, 2,200 lb (1000 kg) Tote, per Specification 8010-07BS-001, dated April 2007, and Tote Specification 8010-005 and drawing, dated January 2006.	0.2580
Brand: Potters					
FOR DATA ENTRY USE ONLY					
4	8010-909-0001-5	107625	VA	PTBRS-A-DGS/PROCUREMENT USE ONLY	VARIABLE